



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 23, 2020
MOAHR Docket No.: 19-012946
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned administrative law judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 16, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Natalie McLaurin, hearing facilitator. Rollin Carter and Melissa Stanley, hearing facilitators for MDHHS, observed the hearing.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's and her spouse's Medicaid eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of November 2019, Petitioner and her spouse (hereinafter, "Spouse") were ongoing recipients of Medicaid.
2. On November 20, 2019, Petitioner submitted to MDHHS an application requesting Food Assistance Program (FAP) benefits.
3. As of December 2019, Petitioner and her spouse were between 19 and 64 years, not recipients of Medicare, and not the caretakers to minor children. Additionally, Petitioner was not pregnant.

4. As of December 2019, Petitioner and Spouse claimed their 24-year old son as a tax dependent.
5. As of December 2019, Petitioner received gross monthly income of \$1,081.21 from employment at [REDACTED] (hereinafter, "Employer1") and \$1,024.01 from employment at [REDACTED] (hereinafter, "Employer2"). Neither Spouse nor Petitioner's son had income.
6. On December 2, 2019, MDHHS determined that Petitioner and Spouse were ineligible for Medicaid beginning January 2020.
7. On [REDACTED], 2019, Petitioner requested a hearing to dispute the termination of her and Spouse's Medicaid.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of her and Spouse's Medicaid benefits. A Health Care Coverage Determination Notice dated November 21, 2019, stated that Petitioner and Spouse were ineligible for Medicaid beginning January 2020. Exhibit A, pp. 13-17. Inexplicably, MDHHS sent a second HCCDN on December 2, 2019, which stated the same. Determining whether the termination of Medicaid was proper requires a consideration of Petitioner's and Spouse potential eligibility under all Medicaid categories.

The Medicaid program includes several sub-programs or categories. BEM 105 (April 2017), p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

As of the hearing date, Petitioner and Spouse were between the ages of 19-64 years old, not disabled, not pregnant, not Medicare recipients, and not caretakers to a minor child. Under the circumstances, Petitioner and Spouse are only potentially eligible for Medicaid under the Healthy Michigan Plan (HMP). The HCCDNs dated November 21, 2019, and December 2, 2019, each stated that Petitioner and Spouse were ineligible for HMP due to excess income.

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013.

HMP is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. MAGI methodology is based on Internal Revenue Service rules and relies on federal tax information. Bridges program Glossary (April 2019) p. 43.

MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Code.¹ 42 CFR 435.603 (e). For individuals who have been determined financially-eligible for MA using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year. 42 CFR 435.603 (h)(2). In determining current monthly or projected annual household income and family size under paragraphs (h)(1) or (h)(2) of this section, the agency may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both, as evidenced by a signed contract for employment, a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income. 42 CFR 435.603 (h)(3).

MDHHS did not present a budget verifying the group size or income used to determine Petitioner's and Spouse HMP eligibility. In lieu of a budget, other evidence will be considered to determine if Petitioner's and Spouse's Medicaid benefits were properly terminated.

Petitioner testified that she is a married tax filer who claims her son as a tax dependent. Policy suggests that Petitioner's circumstances merit a group size of three persons. BEM 211 (July 2019) p. 2. MDHHS testified that Petitioner's and Spouse's HMP eligibility was based on a group size of four which included Petitioner's daughter. For purposes of this decision, the less favorable group size (i.e. group size with a lower income limit) of three will be accepted as Petitioner's and Spouse's proper group size.

¹ Income exceptions are made for lump-sums which are counted as income only in the month received; scholarships, awards, or fellowship grants used for education purposes and not for living expenses; and various exceptions for American Indians and Alaska native. No known exceptions are applicable to the present case.

The only income factored by MDHHS in the HMP termination was Petitioner's income from two jobs. MDHHS presented documents listing "budget amounts" for each job. Exhibit A, pp. 23-24. MDHHS testified that the "budget amounts" reflected the monthly income used to determine Petitioner's and Spouse's Medicaid eligibility. Notably, the "budget amounts" were higher than an "MA Budget Amount" which was also listed on the presented document. Presumably, MDHHS should have factored "MA budget Amounts" to determine a client's Medicaid eligibility; nonetheless, for purposes of this analysis, the higher "Budget Amount" for each of Petitioner's jobs will be accepted as proper. For Employer1, MDHHS factored \$1,081.21 in gross monthly income. For Employer2, MDHHS factored \$1,024.01 in monthly income. Adding the monthly income from Petitioner's jobs and multiplying the total by 12 results in a gross annual income of \$25,262.64. MDHHS testimony acknowledged that \$25,262.64 reflected the amount of annual income to determine Petitioner's and Spouse's HMP eligibility.

MAGI can be defined as a household's adjusted gross income with any tax-exempt interest income and certain deductions added back.² Common deductions and disregards which should be factored in determining a person's adjusted gross income include alimony payments, unreimbursed business expenses, Health Savings Account (e.g., 401k) payments, and student loan interest.³ There was no evidence of applicable deductions. Given the evidence, Petitioner's gross income of \$25,262.64 will be accepted as her income under MAGI methodology.

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014), p. 1. For persons residing in the contiguous 48 states, the 2019 federal poverty level is \$21,330 for a 3-person group.⁴ For Respondent and Spouse to be eligible for HMP, countable income would have to fall at or below \$28,368.90. Petitioner's group's annual income was below the income limit.⁵ Thus, Petitioner and Spouse were income-eligible to receive HMP benefits.

Given the evidence, MDHHS improperly terminated Petitioner's group's HMP eligibility. The appropriate remedy is for reinstatement of the group's HMP eligibility.

² <https://www.investopedia.com/terms/a/agi.asp>

³ *Id.*

⁴ <https://aspe.hhs.gov/2019-poverty-guidelines>

⁵ The HCCDNs sent to Petitioner listed annual incomes of \$22,428.00 \$25,368, respectively. Using these incomes would also render Petitioner and Spouse to be eligible for HMP for a group size of three persons.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's and Spouse's Medicaid eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

(1) Reinstate Petitioner's group's Medicaid eligibility effective January 2020, subject to the finding that Petitioner and Spouse were income-eligible to receive HMP; and

(2) Mail notice of reinstatement in accordance with MDHHS policy.

The actions taken by MDHHS are **REVERSED**.

CG/cg



Christian Gardocki

Administrative Law Judge

for Robert Gordon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Saginaw-Hearings
D. Smith
EQAD
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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